

Appln No. 10/779,467
Amdt date May 1, 2006
Reply to Office action of March 1, 2006

REMARKS/ARGUMENTS

Claims 1-30 are pending in the present application, of which claims 4, 6, 8, 9, 13 and 28 have been withdrawn from consideration.

The Declaration has been considered defective. The Declaration was also considered defective in the prior Office action. Applicants did not file a corrected Declaration in response to the prior Office action. However, Applicants mailed a corrected Declaration to the USPTO on February 15, 2006. Applicants believe that the present Office action refers to the original Declaration, which was filed on February 2, 2004. Therefore, Applicants respectfully request that the objection to the Declaration be withdrawn.

Claims 1-3, 5, 10-12, 14, 16-18, 20, 21-24, 26, 27 and 30 have been rejected under 35 U.S.C. § 102(e) over Selig et al. Applicants respectfully traverse this rejection.

Selig et al. is not prior art to the present application under 35 U.S.C. § 102(e), because the international application upon which Selig et al. is based was not published in the English language. In the MPEP, at section 21.36.03(II)(B), the following is provided regarding how to determine the critical reference date of foreign applications:

If the international application was filed on or after November 29, 2000, but did **not** designate the United States or was **not** published in English under PCT Article 21(2), do **not** treat the international filing date as a U.S. filing date. In this situation, do **not** apply the reference as of its international filing date, its date of completion of the 35 U.S.C. 371(c)(1), (2) and (4) requirements, or any earlier filing date to which such an international application claims benefit or priority. The reference may be applied under 35 U.S.C. 102(a) or (b) as of its publication date, or 35 U.S.C. 102(e) as of any later U.S. filing date of an application that properly claimed the benefit of the international application (if applicable).

(Emphasis in original).

The international application PCT/EP02/04825, upon which Selig et al. is based was filed after November 29, 2000 and was not published (as a PCT publication) in the English language. Accordingly, Selig et al. is not applicable to the present application as a prior art reference under

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35 U.S.C. § 102(e). Therefore, Applicants respectfully request removal of Selig et al. as a prior art reference in the present application.

Nevertheless, Applicants believe that claims 1-3, 5, 10-12, 14, 16-18, 20, 21-24, 26, 27 and 30 are patentable over Selig et al. for the following reasons.

Claim 1 has been amended to recite "an at least partially hollow cylindrical drive element pivotably connected to the seat element constituting a component of a displacement arrangement for an adjustable part of the motor vehicle seat." In contrast, Selig et al. does not disclose or even suggest such a drive element.

Referring to FIGS. 7 and 8 of Selig et al., a force transducer 104 is disposed between a rail 106 and an articulated lever 108 of the vehicle seat and extends along the flange 118. The force transducer includes a non-deforming part 110 and a deformable part 112. The non-deforming part 110 is held by the rail 106 such that it is fixed by screws (not shown). The deformable part 112 includes a pivot point 114 that is formed by a carrying bolt 116, which passes through the deformable part 112 and carries the articulated lever 108 (shown in FIG. 8). The deformable part 112 can deform through a range defined by the opening 120 between the bolt 116 and the flange 118.

The carrying bolt 116 is a solid bolt (see FIG. 8 of Selig et al.). Additionally, the non-deforming part 110 and the deformable part 112 of the force transducer 102 are non-cylindrical objects (see FIG. 7 of Selig et al.). Thus, Selig et al. does not disclose or even suggest "an at least partially hollow cylindrical drive element pivotably connected to the seat element constituting a component of a displacement arrangement for an adjustable part of the motor vehicle seat." Therefore, claim 1 is patentable over Selig et al.

Claim 30 recites that a longitudinal axis of the weight sensor extends along an axis of the tubular drive element. In contrast, Selig et al. fails to disclose or even suggest that a longitudinal axis of the weight sensor extends along an axis of the tubular drive element.

The Examiner states in the Office action that the deformable part 112 of Selig et al. "has a longitudinal axis that extends along an axis of the tubular drive element." The Examiner considers the carrying bolt 116 of Selig et al. as the tubular drive element. Applicants believe,

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however, that the longitudinal axis of the deformable part 112 extends perpendicular to the carrying bolt 116. Referring to FIG. 7 of Selig et al., the deformable part 112 extends along the length of the flange 118 or along the length of the rail 106. In other words, the deformable part 112 extends horizontally as viewed from FIG. 7. However, the carrying bolt 116 extends perpendicular relative to the flange 118 or the rail 106. As viewed from FIG. 7 of Selig et al., the carrying bolt 116 extends into the page. Accordingly, the longitudinal axis of the deformable part 112 extends perpendicular to the carrying bolt 116.

Therefore, because Selig et al. does not disclose or even suggest that a longitudinal axis of the weight sensor extends along an axis of the tubular drive element, Claim 30 is patentable over Selig et al.

Applicants have amended claims 2, 3, 5, 10-12, 14, 16-18, 20, 21-24, 26 and 27 to now depend from claim 30 either directly or through intervening claims. Therefore, these claims are also patentable over Selig et al.

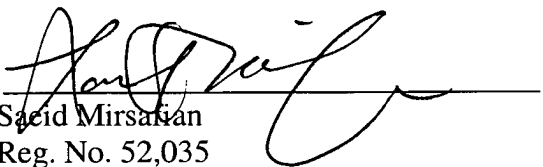
Claim 7 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al. Claim 7 depends from claim 30 through intervening claim 5. Therefore, Applicants believe that in view of the foregoing arguments present herein in support of patentability of claim 30, claim 7 is also patentable over Selig et al.

Claims 15, 19, 25 and 29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al. in view of Sakamoto et al. Claims 15, 19, 25 and 29 depend from claim 30 either directly or through intervening claims. Therefore, Applicants believe that in view of the foregoing arguments present herein in support of patentability of claim 30, claims 15, 19, 25 and 29 are patentable over Selig et al. in view of Sakamoto et al.

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In view of the foregoing, Applicants respectfully request a timely indication of allowance. Should there be any further issues that can be addressed by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 
Saeid Mirsanian
Reg. No. 52,035
626/795-9900

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